

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

JANE DOE,

Plaintiff,

v.

**RECTOR AND VISITORS OF THE
UNIVERSITY OF VIRGINIA,**

Defendant.

Case No. 3:23-cv-00018-RSB

**DEFENDANT’S MEMORANDUM IN SUPPORT OF MOTION TO EXCEED PAGE
LIMIT FOR MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

Defendant the Rector and Visitors of the University of Virginia (“UVA” or “Defendant”), by counsel, respectfully moves this Court for leave to file a 40-page memorandum in support of its forthcoming motion for summary judgment. Plaintiff does not agree to the granting of this motion.

The scheduling order limits all briefs in support of motions to 25 pages. Defendant, in its forthcoming memorandum in support of its motion for summary judgment, will set out the undisputed material facts in this matter, which occurred over a three-year time frame and involved a lengthy and thorough Title IX investigation. To adequately set out the material facts supporting its motion for summary judgment and to argue the relevant law, Defendant requests leave to exceed the current page limit by 15 additional pages and for Plaintiff to be granted the same dispensation for her opposition.

BACKGROUND

Plaintiff filed this action relating to the Title IX investigation conducted by UVA after

Plaintiff reported in March 2020 that a professor had grabbed her without her consent during a study abroad trip in December 2018 and January 2019. After the investigation resulted in a finding that there was sufficient evidence to conclude that the professor sexually assaulted Plaintiff, UVA barred the professor from ever working at UVA again.¹

After Defendant filed a motion to dismiss Plaintiff's Amended Complaint, Plaintiff withdrew all of her claims except for Count I, which asserts various violations of Title IX by UVA. ECF No. 42 at 2. This Court then granted Defendant's motion to dismiss as to Plaintiff's claims related to allegations that UVA was deliberately indifferent to alleged actual notice in February 2020 that Plaintiff was being sexually harassed by the professor. ECF No. 43. The Court allowed Plaintiff's case to proceed only as to: (1) the Title IX deliberate indifference claim stemming from the 2018-2019 J-Term incident, and Professor Biemann's failure to take action as to this incident; and (2) the adequacy of the UVA's Title IX investigation. *Id.*

Discovery closed on September 10, 2024, and the trial is set to begin on December 9, 2024. ECF Nos. 30, 47. On September 25, 2024, consistent with the scheduling order, Defendant will file a motion for summary judgment on the remaining portions of Plaintiff's Title IX claim.

Plaintiff's Amended Complaint sets out extensive factual allegations regarding the Title IX investigation and UVA's actions that span three years from the Fall Semester of 2018 through August 2021. ECF No. 21 at ¶¶ 28-286. The allegations relevant to the remaining portion of Plaintiff's Title IX claim cover 31-pages. *Id.* at 5-36. UVA's final report summarizing its investigation into the professor's interactions with Plaintiff was 319-pages. *Id.* at ¶ 234.

Plaintiff also is claiming that she continues to incur damages, even now in 2024, more than

¹ UVA recommended a sanction of termination for the professor. However, the professor resigned two days after UVA sent him notice of its intent to terminate his employment.

four years after her graduation from UVA in Spring 2020. In particular, Plaintiff claims unavailable emotional distress damages,² lost earnings for a career she never entered into and apparently has no intention of doing so now, and damages pertaining to her October 2023 abortion, which she blames on UVA because she has failed to obtain a stable career and employment in the last four years.

The Scheduling Order limits the length of a brief in support of a motion to 25 pages without leave of the Court. ECF No. 30 at 3.

ARGUMENT

Good cause exists to exceed the twenty-five-page limit.

Good cause exists for Defendant to be granted 15 additional pages for its forthcoming memorandum in support of its motion for summary judgment due to the timeframe covered by the Amended Complaint and Plaintiff's challenge of almost every element of UVA's Title IX investigation. Defendant needs more than 25 pages to adequately set out the material undisputed facts relating to the J-Term trip in December 2018 and January 2019 and UVA's response and Title IX investigation from March 2020 through August 2020¹ and still be able to set out its arguments regarding the application of the law to those facts.

Defendant respectfully requests 15 additional pages so it can adequately set out the undisputed material facts and legal arguments supporting its motion for summary judgment. Plaintiff should similarly be granted 40 pages for her responsive brief.

CONCLUSION

WHEREFORE, Defendant respectfully requests that the Court enter an order granting it

² See *Cummings v. Premier Rehab Keller, P.L.L.C.*, 142 S. Ct. 1562, 1569-76 (2022); *Doe v. Fairfax Cnty. Sch. Bd.*, No. 1:18-cv-00614, 2023 U.S. Dist. LEXIS 13886, at *8-10 (E.D. Va. Jan 25, 2023); ECF No. 23 at 21-23; ECF No. 33 at 15-17.

leave to file a memorandum in support of its forthcoming motion for summary judgment that does not exceed 40 pages.

Respectfully submitted,

**THE RECTOR AND VISTORS OF THE
UNIVERSITY OF VIRGINIA**

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September of 2024, I filed a copy of the foregoing document using the Court's ECM/ECF filing system, which will send an electronic notification of the same (NEF) to counsel of record for the plaintiff.

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